

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAY ROBERT SCHECTER	:	CIVIL ACTION
	:	
v.	:	
	:	
BUCKS COUNTY, <i>et al.</i>	:	NO. 10-3467

MEMORANDUM

Fullam, Sr. J.

January 13, 2011

The plaintiff filed a *pro-se* complaint alleging that while he was incarcerated at the Bucks County Correctional Facility, a correctional officer in the cafeteria repeatedly directed religious slurs to the plaintiff (the plaintiff was entitled to receive kosher meals) and made the plaintiff feel he was in danger of being assaulted. Mr. Schechter alleges that after feeling physically intimidated by the correctional officer he did not enter the cafeteria for breakfast or lunch, fearing another encounter. The plaintiff does not allege that he sustained any physical injuries or required medical treatment, and he is incarcerated now in a different facility.

The defendants have filed a motion to dismiss, which will be granted. The alleged actions of the correctional officer are reprehensible, but do not rise to the level of a constitutional violation. The plaintiff does not allege that he was struck (or even that the correctional officer threatened to hit him) or that he was physically prevented from going to the cafeteria. Verbal harassment, even coupled with threatening

language and gestures, cannot support a § 1983 claim under the circumstances alleged here. See Durham v. Vekios, No. 09-cv-5376 (FLW), 2010 WL 5479633 (D.N.J. Dec. 22, 2010) (collecting cases). The motion to dismiss will be granted, and because the plaintiff cannot state a claim upon which relief may be granted, his motions for appointment of counsel and for discovery will be denied.

An order will be entered.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.